

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0088-01
Bill No.: HB 799
Subject: Crimes and Punishment; Courts; Criminal Procedure; Law Enforcement Officers and Agencies
Type: Original
Date: April 25, 2013

Bill Summary: This proposal creates the crime of sexual exploitation by a clergyperson.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------------------------|------------------------------|------------------------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| General Revenue | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|--|----------|----------|----------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|-------------------------------------|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator** and **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of sexual exploitation by a clergy person - a new class C felony. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** state the penalty provision component of this bill resulting in potential fiscal impact for DOC, is for a class C felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate) or through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

| <u>FISCAL IMPACT - State Government</u> | FY 2014 (10 Mo.) | FY 2015 | FY 2016 |
|--|---|---|---|
| GENERAL REVENUE | | | |
| <u>Costs</u> - Department of Corrections Increased costs from supervision / incarceration of offenders | (Less than <u>\$100,000</u>) | (Less than <u>\$100,000</u>) | (Less than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND | (Less than <u>\$100,000</u>) | (Less than <u>\$100,000</u>) | (Less than <u>\$100,000</u>) |

| <u>FISCAL IMPACT - Local Government</u> | FY 2014 (10 Mo.) | FY 2015 | FY 2016 |
|---|---------------------|-------------------|-------------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill creates the crime of sexual exploitation by a clergyperson, a class C felony. A person commits the crime when a person holds himself or herself out to be a clergyperson and engages in sexual conduct with another person who is not his or her spouse, and the sexual conduct occurred while meeting on an ongoing basis with the victim for religious, spiritual, marital, or relationship advice, counseling, therapy, aid, or comfort or while he or she was in a position of trust or authority over the victim and used the position to engage in the sexual conduct. Consent by the victim will not be a defense under these provisions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Public Safety
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections



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Acting Director
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